

STATE OF CONNECTICUT

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Testimony of Michelle Cruz, Esq., State Victim Advocate
Transportation Committee
Monday, February 14, 2011

Good afternoon Senator Maynard, Representative Guerrero and distinguished members of the Transportation Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Proposed House Bill No. 6132, An Act Concerning Evidence of Drunken Driving
Proposed House Bill No. 6143, An Act Increasing Penalties for Persons who
Operate a Motor Vehicle While Having a Suspended License

Connecticut has adopted an Implied Consent Law for submitting to a chemical analysis of one's blood, breath or urine if requested by a law enforcement officer following a Driving Under the Influence (DUI) arrest (C.G.S. § 14-227b). If a motorist refuses to submit to such testing, he/she faces suspension of his/her license through the Department of Motor Vehicles Administrative Per Se Proceedings. The time of suspension is dependent upon the age of the driver and DUI history, if any. Additionally, the current law allows in motor vehicle crashes which result in serious physical injury and/or death, and where there exists probable cause or responsible suspicion that the operator was under the influence of alcohol, law enforcement officers are mandated to take blood or breathe sample from the operator. In practice, this does not happen.

The Office of the Victim Advocate (OVA) has been able to identify obstacles to the collection of blood/breath sample from operators involved in crashes involving serious physical injury or death. There simply is no mechanism to facilitate the forcible taking of blood/breath sample by law enforcement. The majority of operators continue to refuse to submit to such mandatory testing and only face a license suspension through the Administrative Per Se Proceedings. As a result the intended purpose of the statute has yet to be materialized.

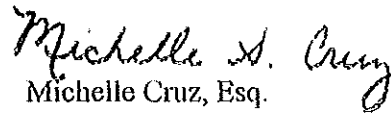
After a review of the policies and procedures of the Department of Public Safety for the taking of an uncooperative operator's blood/breath sample, the policy is not supported by the medical community who are ultimately the entity responsible for the actual performance of the test by an uncooperative operator. As a result, the current statute lacks any real enforcement mechanism as there are no additional legal consequences when an operator refuses to submit to the test in cases of serious injury or death.

To remedy the current gap, the OVA suggests that when an operator involved in a motor vehicle crash with serious physical injury or death, and there exists probable cause

or reasonable suspicion to believe that the operator is driving while under the influence, refuses to submit to a blood/breath sample, that refusal will result in admissible evidence in Court that the operator had consumed alcohol. Additionally, along with the admissible evidence of alcohol consumption, there shall also be a mandatory jail sentence which cannot be waived or suspended, as well as a hefty mandatory fine. Further, for each subsequent offense, the sanction must be increased to obtain the deterrent value targeted at repeat drunk driving offenders.

Moreover, all too often, operator's convicted of drunk driving continue to drive while their license to operate a motor vehicle is under suspension. Driving is a privilege, not a right. When an individual has proven him or herself to be a repeat drunk driver, the immobilization of that offender is paramount to protection of our communities. Rarely is there an opportunity to prevent serious injuries and/or death by motor vehicles, and yet a mandatory sentence for continuing to operate a motor vehicle after being shown to be a repeat offender, will prevent harm. The repeat drunk driver jeopardizes their own safety and that of the public at large. Sadly, lives have been lost due to repeat drunk drivers operating a motor vehicle while their license is under suspension. Just as it is necessary to impose strict penalties for refusing to submit to a blood/breath test in cases that involve an accident with serious physical injury or death, the penalty for operating a motor vehicle while the operator's license is suspended must be stiff. The law should not be waiting for a repeat drunk driver to be convicted for a fourth offense of driving while under suspension or a drunk driver to be convicted of manslaughter with a motor vehicle to respond with harsh penalties. To truly protect the public from the habitual drunk driver from driving while under suspension, the penalty must be firm, including a mandatory jail sentence for conviction of the first offense of driving while under suspension. Driving is a privilege and should be treated as such.

Respectfully submitted,


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